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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,528	08/09/2001	Per Lachenmeier	0430 - 0160P	1971

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EXAMINER

TRAN, LOUIS B

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 03/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/924,528

Applicant(s)

LACHENMEIER ET AL.

PR

Examiner

Louis B Tran

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 8-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6,8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Invention I claims 1-7, in Paper No. 11, is acknowledged. The traversal is on the ground(s) that there is no burden on the examiner to further search. This is not found persuasive because divergent subject matter is contained in the claims.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 9-14 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 11.

### ***Specification***

3. The disclosure is objected to because of the following informalities: Page 4, lines 5 and 6 of the specification make reference to claim numbers. Appropriate correction is required.

### ***Claim Objections***

4. Claim 1 is objected to because of the following informalities: Line 12 of claim 1 states "objected". It is assumed applicant has intended to state "object". Appropriate correction is required.

Line 18 of claim 1, states "is expanded in essentially vertical direction". It is assumed applicant has intended to state "expanded in **an** essentially vertical direction". Correction required.

### ***Claim Rejections - 35 USC § 112***

Art Unit: 3721

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 5-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5, in line 4, states "and/or tentering, respectively, and/or pulling off". The scope of the limitation is unattainable since it is unclear if applicant intends for the limitation to include "and" or "or".

Claim 5 also recites the limitation "said rolls" in line 5 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 also recites the limitation "the pulling over end phase" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 also recites the limitation "said rolls" in line 3 of the claim. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2, 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Birkenfeld (DE 4307287).

Birkenfeld anticipates a method for packaging objects in a stack 3 and forming a foil hood 17 harmonized to the length of said good to be packed or a band stock hose, reefing said foil hood or band stock, respectively, on several gripper means 13 movable in essentially horizontal direction, of a lifting frame movable in essentially vertical direction, tentering said reefed foil hood or band stock, respectively, in essentially horizontal direction by movement of said gripper means such that said tentered opening of said foil hood or band stock respectively, is larger than the contour of said object to be packaged and wherein said foil hood or band , respectively, is expanded in essentially horizontal direction, pulling over of said foil hood or band stock, respectively, over said object by the essentially vertical movement of said lifting frame, wherein said foil hood or band stock is pulled off from said gripper means and is expanded in an essentially vertical direction seen in Figures 2-6, wherein said tension of said foil hood or band stock in the region of the upper side of said stack of goods is controlled as described in column 6, lines 30-57.

With respect to claim 2, Birkenfeld anticipates a method wherein said foil hood or band again is partly pulled down from said gripper means during tentering.

With respect to claim 5, Birkenfeld anticipates wherein said reefing or pulling off of said foil hood or band stock during reefing or tentering or pulling off of said foil hood during pulling over is effected by the movement of said rolls, wherein the outer surface of rolls shift said foil hood pushed onto said gripper means.

With respect to claim 6, Birkenfeld anticipates wherein said foil hood or band is held on said gripper means during a pulling over end phase seen in Figure 6.

With respect to claim 7, Birkenfeld anticipates wherein said holding of said foil hood or band stock is effected by means of rolls which press said foil hood against said gripper means.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Birkenfeld (DE 4307287) .

With respect to claim 3, Birkenfeld discloses the invention substantially as claimed including an inherent method wherein said pulling off speed of said foil hood or band stock during tenting is lower than the speed of the movement of said gripper means to prevent overstretching.

Birkenfeld does not explicitly state that the pulling off occurs in the essentially horizontal direction only but rather in a vertical *and* horizontal movement (horizontal movement occurs to adjust for stack size change).

However, it would have been obvious to one having ordinary skill in the art to provide Birkenfeld with pull off in the essentially horizontal direction since it was known in the art to provide pull off in an essentially vertical and horizontal direction in order to prevent overstretching as in column 6, lines 30-57 and seen in Figures 8-10.

With respect to claim 4, Birkenfeld inherently teaches the method wherein said pulling off speed of said foil hood or band during pulling over of said foil hood is lower than the speed of the essentially vertical movement of said lifting frame.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. are Thimon, Tolson, Higgins (401), Higgins (219), Rimondi et al., Karpisek, King, Birkenfeld et al. (658), Birkenfeld et al., (964), Birkenfeld et al., (439), Cappi et al., Dean et al., Hannen, Birkenfeld (DE 3941139) .

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis B Tran whose telephone number is 703-305-0611. The examiner can normally be reached on 8AM-6PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700

lbt  
March 4, 2003